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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/774,131

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Nobumasa Kobayashi

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06/02/2004

GREER, BURNS & CRAIN  
300 S WACKER DR  
25TH FLOOR  
CHICAGO, IL 60606

EXAMINER

VANDERPUYE, KENNETH N

ART UNIT

PAPER NUMBER

2661

DATE MAILED: 06/02/2004

3

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/774,131

Applicant(s)

KOBAYASHI, NOBUMASU

Examiner

Kenneth N Vanderpuye

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-10 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Sugita (5,638,364).

With regards to claims 1-2, Sugita teaches a communications device (fig. 2) for communicating with a remote device by using one of a plurality of paths(VPI/VCI) comprising:

Storing means for storing information relating to said plurality of paths(VPI/VCI table, col. 3 lines 8-11); selecting means for selecting the information relating to one of said plurality of paths stored in said storing means(col. 3 lines 11-14, inherently taught because the header attached to each payload is produced by using the VPI and VCI stored in the table. The cell assembler selects VPI and VCI from the table. A different VCI is selected for each connection or a VPI and VCI may be selected for a

different connection), packet generating means for generating a packet with a header matching the information relating to the path selected by the selecting means(col. 3 lines 11-14, cell assembler generates cells), transmitting means for transmitting the packet generated by said packet generating means(CLSF processor).

Claims 9-10 are rejected for the same reasons above.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-6, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugita in view of Nagami(6,598,080).

With regards to claim 3, Sugita teaches a selecting means for selecting VPI/VCI's from a table, Sugita fails to teach a communications device wherein said storing means additionally stores status information indicative of status of individual paths in a manner associated with respective paths (Nagami, Fig. 10). Since the feature is taught by Nagami, it would have been obvious for one of ordinary skill in the art to combine the

feature in Nagami with the VPI/VCI table in Sugita for the purpose of enabling the selection of VCIs that are not in use. The motivation being the assignment of idle VCIs.

With regards to claim 4, both Sugita and Nagami fail to teach a monitoring means for monitoring the status of the paths; and supply means for supplying said storing means with the status of paths obtained by said monitoring means. However in order to maintain/update the status field in the table in fig. 10 of Nagami, a monitoring means is an inherent and necessary feature to achieve this end(inherently taught). It would have been obvious for one of ordinary skill in the art to combine Sugita with Nagami for the same purpose as in claim 3.

Claim 5 is rejected because Nagami indicates whether the individual paths are available or not(Fig. 10). ). It would have been obvious for one of ordinary skill in the art to combine Sugita with Nagami for the same purpose as in claim 3.

Claim 6 is rejected because in Nagami one can tell the number of VCIs that are in use in a particular VP. (Fig. 10, 110/108, 110/101, 110/102). It would have been obvious for one of ordinary skill in the art to combine Sugita with Nagami for the same purpose as in claim 3.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sugita in view of Nagami as applied to claim 3 above, and further in view of Nishihara et al.(6,137,798).

Both Sugita and Nagami teach receiving means for receiving a packet transmitted from a remote the remote device(Fig. 2), but fail to teach a an updating means for looking up information included in a received packet by said receiving means and updating the information stored in said storing means(Nishihara, col. 5 lines 66-67 to col. 6 lines 1-4). It would have been obvious to one of ordinary skill in the art to combine Nishihara with Sugita and Nagami for the purpose of enabling the updating of status information base on information in a received packet. The motivation being remote updating.

***Allowable Subject Matter***

Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth N Vanderpuye whose

telephone number is 703-308-7828. The examiner can normally be reached on M-F(7:30-5:00) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms can be reached on 703-305-4703. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KNV  
May 27, 2004



KENNETH VANDERPUYE  
PRIMARY EXAMINER